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10 UNITED STATES DISTRICT COURT
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12 NORTHERN DISTRICT OF CALIFORNIA
13 OAKLAND DIVISION
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15 INTERTRUST TECHNOLOGIES
CORPORATION, a Delaware corporation,

16 Plaintiff,

17 v.

18 MICROSOFT CORPORATION, a
19 Washington corporation,

20 Defendant.

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22 MICROSOFT CORPORATION, a
Washington corporation,

23 Counterclaimant,

24 v.

25 INTERTRUST TECHNOLOGIES
CORPORATION, a Delaware corporation,

26 Counter Claim-Defendant.
27
28

Case No. C 01-1640 SBA (MJE)

**PATENT LOCAL RULE 4-3 JOINT
CLAIM CONSTRUCTION AND
PREHEARING STATEMENT
REVISED IN ACCORDANCE WITH
THE SCOPE OF "MINI-MARKMAN"
HEARING SET FORTH IN THE
COURT'S ORDER ENTERED 2/24/03**

1 In accordance with the Court's Order entered February 24, 2003 and Patent Local
2 Rule 4-3, Plaintiff and Counter-Defendant InterTrust Technologies ("InterTrust") and Defendant
3 and Counter-Claimant Microsoft Corporation ("Microsoft") submit the following revised Joint
4 Claim Construction and Prehearing Statement. Pursuant to that Order, the parties have limited
5 their disputes for purposes of the "Mini-Markman" proceeding, to 30 disputed terms and phrases,
6 as identified in alphabetical order in Exhibit B and highlighted in copies of the claims in Exhibit
7 H, hereto.

8 Submission of "Intrinsic" Evidence

9 To avoid unnecessary duplication, the parties will submit, prior to the submission
10 of the final briefs in the "Mini-Markman" proceeding (including briefing addressing
11 indefiniteness), a Joint Declaration presenting the Intrinsic evidence (including patents, file
12 histories and cited references). The parties agree that in briefs submitted in the "Mini-Markman"
13 proceeding, a party may cite to evidence that ultimately will be submitted by the parties in such
14 Joint Declaration and need not append such evidence to a declaration in support of a brief. This
15 agreement does not limit either party from submitting any evidence with a declaration
16 accompanying any brief.

17 RULE 4-3(a): Agreed Construction

- 18 • Attached hereto as **Exhibit I** is a list of claim constructions upon which the parties agree.
19 To the extent that agreed constructions refer to disputed terms that are not among the 30
20 terms in the "Mini-Markman" proceeding, such terms are set forth in quotations.

21 RULE 4-3(b): Disputed Claim Construction Presentation

- 22 • Attached hereto as **Exhibit A** is a list of disputed claim terms set forth in claim order,
23 together with the parties' proposed constructions.
24 • Attached hereto as **Exhibit B** is a list of the 30 disputed claim terms in alphabetical order,
25 together with the parties' proposed constructions.
26 • Attached hereto as **Exhibit C** is InterTrust's identification of intrinsic and extrinsic
27 evidence supporting its proposed construction for each of the 30 disputed terms and
28 phrases.

- Attached hereto as **Exhibit D** is Microsoft's identification of intrinsic and extrinsic evidence supporting its proposed construction for each of the 30 disputed terms and phrases.
- Attached hereto as **Exhibit E** is a Microsoft statement of reservations.
- Attached hereto as **Exhibit H** is the text of the 12 claims at issue, with bolding identifying the terms and phrases in dispute for the purposes of the "Mini-Markman" proceeding.

RULE 4-3(c): Claim Construction Hearing Length

The claim construction schedule is set forth in the Court's Order entered February 24, 2003.

RULE 4-3(d): Witness Testimony

The parties have agreed to present witness testimony through declarations filed in support of the briefs. There also shall be tutorial presentations, per the Court's Order of February 24, 2003.

- Attached hereto as **Exhibit F** is a summary of expert testimony to be presented by InterTrust.
- Attached hereto as **Exhibit G** is a summary of expert testimony to be presented by Microsoft.

RULE 4-3(e): Pre-Hearing Conference Issues

The parties addressed pre-hearing matters at the Case Management Conference hearing on February 13, 2003. No pre-hearing conference is currently scheduled or requested.

Dated: March 14, 2003

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12 Dated: March 14, 2003

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